

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

EARNEST BARNARD CLAYTON,	:	
	:	
Plaintiff,	:	Case No. 5:24-CV-00161-MTT-AGH
	:	
v.	:	
	:	
Commissioner TIMOTHY WARD,	:	
<i>et al.,</i>	:	
	:	
Defendants.	:	

ORDER

Pro se Plaintiff Earnest Barnard Clayton, a prisoner confined in Telfair State Prison in Helena, Georgia filed this 42 U.S.C. § 1983 action. ECF No. 1. Plaintiff also filed a motion for leave to proceed *in forma pauperis* without the statutory supporting documents. ECF No. 3. On June 12, 2024, Plaintiff was ordered to recast his complaint and was provided specific instructions on how to do so. ECF No. 4. Plaintiff was further ordered to either submit the statutory documents to support his motion to proceed *in forma pauperis* or pay the full filing fee. *Id.* Plaintiff was given fourteen (14) days to comply with the Court's order and was informed that failure to comply would result in dismissal of this action. *Id.* Plaintiff failed to respond.

Therefore, on July 8, 2024, the Court notified Plaintiff that it had not received a recast complaint nor was the incomplete motion to proceed *in forma pauperis* addressed. ECF No. 5. The Court ordered Plaintiff to show cause why this action should not be

dismissed for failure to comply with the Court's previous order. *Id.* The Court unambiguously informed Plaintiff that this action would be dismissed if he failed to comply with this Court's orders. *Id.* Plaintiff was given fourteen (14) days to respond. *Id.* Plaintiff has not responded.

Because Plaintiff has failed to comply with the Court's orders or otherwise prosecute his case, this complaint is **DISMISSED WITHOUT PREJUDICE**. *See* Fed. R. Civ. P. 41(b); *Brown v. Tallahassee Police Dep't*, 205 F. App'x 802, 802 (11th Cir. 2006) ("The court may dismiss an action *sua sponte* under Rule 41(b) for failure to prosecute or failure to obey a court order.") (citing Fed. R. Civ. P. 41(b) and *Lopez v. Aransas Cty. Indep. Sch. Dist.*, 570 F.2d 541, 544 (5th Cir. 1978)); *Duong Thanh Ho v. Costello*, 757 F. App'x 912 (11th Cir. 2018) (holding that the district court did not abuse its discretion in *sua sponte* dismissing without prejudice prisoner's *pro se* § 1983 complaint for failure to comply with court order to file amended complaint where order expressly informed prisoner of deficiencies in his complaint and rules that he needed to follow in filing amended complaint).

SO ORDERED, this 29th day of July, 2024.

S/ Marc T. Treadwell

MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT